

REMARKS

Claims 15-22, 33-35, 51-67, 84-103, 106, and 109 are pending. Claims 15-22, 33-35, 51-54, 84-90, 106 and 109 are under examination.

The rejection of claims 51-54 and 87-90 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-4, 36 and 37 of U.S. Patent No. 6,890,537 is respectfully traversed. Applicants maintain, for the reasons of record, that the claims, at best, could be viewed as directed to species of generic claims. Nevertheless, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,890,537 (Exhibit A). Applicants respectfully submit that the double patenting rejection has been rendered moot by the filing of the terminal disclaimer. As stated by the Court of Appeals for the Federal Circuit, the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection," Quad Environment Technologies Corp. v. Union Sanitary District, 20 USPQ2d 1392 (Fed. Cir. 1991). Thus, Applicants request that the double patenting rejection be withdrawn.

The rejection of claims 15-22, 33-35 and 84-86 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1 and 23-25 of U.S. Patent No. 6,335,318 is respectfully traversed. Applicants maintain, for the reasons of record, that the claims, at best, could be viewed as directed to species of generic claims. Nevertheless, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,335,318 (Exhibit B). Applicants respectfully submit that the double patenting rejection has been rendered moot by the filing of the terminal disclaimer. Accordingly, Applicants respectfully request that this double patenting rejection be withdrawn.

The rejection of claims 106 and 109 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claim 12 of U.S. Patent No. 6,514,727 is respectfully traversed. Applicants maintain, for the reasons of record, that the claims, at best, could be viewed as directed to species of generic claims. Nevertheless, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,514,727 (Exhibit C). Applicants respectfully submit that the double patenting rejection has

been rendered moot by the filing of the terminal disclaimer. Accordingly, Applicants respectfully request that this double patenting rejection be withdrawn.

Applicants further submit a copy of the recordation of assignment of application Serial No. 10/009,317 (Exhibit D) and the previously filed Statement under 37 CFR 3.73(b) establishing the assignee's rights in the invention (Exhibit E).

Applicants respectfully submit that the claims are now in condition for allowance. Applicants respectfully point out that withdrawn claims 55-67 and 91-103 depend from allowable base claims 15 and 19. As indicated in the Restriction Requirement dated May 5, 2004, Applicants respectfully request reconsideration and rejoinder of process claims 55-67 and 91-103 in light of the allowability of product claims 15 and 19.

In light of the remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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